



General Assembly

January Session, 2009

Amendment

LCO No. 5618

HB0614405618HR0

Offered by:

REP. D'AMELIO, 71st Dist.

To: Subst. House Bill No. 6144

File No. 155

Cal. No. 158

"AN ACT CONCERNING A MORATORIUM ON MORTGAGE FORECLOSURE."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 47a-26b of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2009*):

5 (a) If the defendant appears, the court shall, upon motion and
6 without hearing, unless the defendant files an objection within five
7 days of the filing of the motion, order the defendant to deposit with
8 the court within ten days of the filing of the motion payments for use
9 and occupancy in an amount equal to the last agreed-upon rent or, in
10 the absence of a prior agreed-upon rent, in an amount equal to the fair
11 rental value of the premises during the pendency of such action
12 accruing from the date of such order. If the motion is served upon the
13 defendant with the complaint, the motion shall be deemed for
14 purposes of this section to have been filed on the date on which the
15 defendant appears. If all or a portion of the defendant's rent is being

16 paid to the plaintiff by a housing authority, municipality, state agency
17 or similar entity, this requirement shall be satisfied if the defendant
18 deposits with the court an amount equal to his portion of the last
19 agreed-upon rent. The motion for use and occupancy payments shall
20 include a statement of the amount of the last agreed-upon rent. The
21 motion shall be filed on a form prescribed by the Office of the Chief
22 Court Administrator and shall contain, in clear and simple language, a
23 notice advising the defendant that, if the defendant files an objection
24 within five days of the date the motion was filed, the court will
25 conduct a hearing on the motion prior to entering an order, but, if the
26 defendant does not file an objection during such time period, the court
27 will order use and occupancy payments without a hearing. The form
28 shall also contain a place for the defendant to claim an objection to the
29 motion and notice that the defendant may file an objection at any time.
30 The filing by the plaintiff of a motion for use and occupancy payments
31 shall not suspend the time limits for pleading under section 47a-26a.

32 (b) Notice to the defendant of an order for use and occupancy
33 payments shall be given on a form prescribed by the Office of the Chief
34 Court Administrator. Such form shall state in clear and simple
35 language and in readable format (1) the amount to be paid, (2) the date
36 by which such payment must be received by the clerk, and (3) the
37 consequences of failure to make payment as ordered.

38 (c) If the defendant files an objection to the motion, a hearing on the
39 objection shall be held not more than seven days after such objection is
40 filed, after which the court shall order the defendant to deposit with
41 the court payments for use and occupancy in an amount equal to the
42 fair rental value of the premises during the pendency of such action
43 accruing from the date of such order. If all or a portion of the
44 defendant's rent is being paid to the plaintiff by a housing authority,
45 municipality, state agency or similar entity, this requirement shall be
46 satisfied if the defendant deposits with the court an amount equal to
47 his portion of the fair rental value of the premises. The last agreed-
48 upon rent shall be prima facie evidence of the fair rental value of the
49 premises. The party claiming a different amount shall have the burden

50 of proving that the last agreed-upon rent is not the fair rental value.
51 Such order shall permit the payment of such amounts in monthly
52 installments, as such amounts become due. Nothing in this subsection
53 shall preclude either party from subsequently moving to modify the
54 amount of the payment order for cause shown.

55 (d) If the defendant fails to make such payments as ordered, the
56 clerk shall, immediately and without the filing of a motion, order the
57 defendant to file his answer and, if the defendant fails to do so within
58 four days of the mailing of such order, judgment shall forthwith be
59 entered for the plaintiff. If the defendant files an answer within such
60 four-day period, the clerk shall set such matter down for hearing not
61 less than three nor more than seven days after such answer and reply,
62 if any, are filed.

63 (e) The court shall deposit amounts paid for payments for use and
64 occupancy pursuant to an order issued under this section into an
65 interest-bearing account established to receive such payments.

66 Sec. 502. Section 47a-26f of the general statutes is repealed and the
67 following is substituted in lieu thereof (*Effective October 1, 2009*):

68 After entry of final judgment, the court shall hold a hearing to
69 determine the amount due each party from the accrued payments for
70 such use and occupancy and order distribution in accordance with its
71 determination. Such determination shall be based upon the respective
72 claims of the parties arising during the pendency of the proceedings
73 after the date of the order for payments and shall be conclusive of such
74 claims only to the extent of the total amount distributed. Any interest
75 remaining in the account in which the payments were deposited shall
76 be paid to the Department of Mental Health and Addiction Services
77 and used for the purposes of the program established under section
78 503 of this act.

79 Sec. 503. (NEW) (*Effective October 1, 2009*) (a) The Department of
80 Mental Health and Addiction Services shall administer a program for
81 the use of interest on payments of use and occupancy for rental units

82 ordered by the courts pursuant to section 47a-26b of the general
83 statutes, as amended by this act. The department shall use such
84 interest to provide funding for (1) grants to homeless persons and
85 persons at risk for becoming homeless established pursuant to section
86 17a-484a of the general statutes; and (2) the Supportive Housing
87 Initiative established under section 17a-485c of the general statutes.

88 (b) The Chief Court Administrator and the Commissioner of Mental
89 Health and Addiction Services shall enter into a memorandum of
90 understanding to implement the provisions of this section."